

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

FRANCISCO ABELLAN VILLENA,  
GUILLERMO CIUPIAK, JAMES B.  
PANTHER, JR., and  
FAIYAZ DEAN

Defendants.

Civil Action No. 18-cv-4309 (PKC)

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S STATUS REPORT**

Plaintiff Securities and Exchange Commission ("SEC" or "Commission") respectfully submits this Status Report. The SEC's case remains unresolved against two defendants: James B. Panther, Jr. ("Panther") and Guillermo Ciupiak ("Ciupiak").

**I. Panther**

At the request of the Department of Justice's ("DOJ") in the parallel criminal action against him, *U.S. v. Panther*, No. 19-cr-448, (D. Ariz.), Panther was sentenced to five-years' probation on June 1, 2023. In view of that outcome, the SEC has communicated settlement terms that, if approved by the Commission, would allow us to present a fully dispositive motion to conclude this civil case as to him. However, Panther has proposed to defer his response to our settlement demand until his restitution (if any) in the criminal case is determined. A hearing on his restitution is tentatively scheduled for October 15, 2023. Should Panther ultimately accede to our settlement demand, we will promptly present the settlement for this Court's approval. On the other hand, should Panther reject our demand or be unable or unwilling to respond within a reasonable period of time, it is our intention to promptly move for summary judgment against him based on collateral

estoppel.

## **II. Ciupiak**

The Court will recall that the SEC and Ciupiak have entered into a bifurcated settlement, (ECF No. 45), which resolved Ciupiak's liability but deferred the issues of disgorgement and any civil penalty for later determination. According to DOJ, Ciupiak has pleaded guilty in the parallel criminal case but has not been sentenced nor are we aware of any anticipated time frame for DOJ to bring that case to conclusion. Accordingly, we are assessing whether it is advisable to seek a fully dispositive settlement with Ciupiak at this time even before knowing whether he will be assessed any restitution and/or forfeiture in the criminal case. The undersigned will be required to make a recommendation to the Commission and seek formal approval in accordance with the SEC's practices and procedures and the Administrative Procedure Act. That process is likely to take until at least some time this September. On the other hand, it may be possible to resolve the remaining issues as to Ciupiak somewhat sooner if the criminal case is brought to conclusion.

## **III. Conclusion**

We regret having to once again report that this case still is not ready to be brought to conclusion, although there has been recent dialogue between the parties. We do wish to assure the Court and reaffirm our commitment to move the case along as rapidly as possible under the circumstances.

Respectfully submitted,

Dated: August 1, 2023

/s/ Duane K. Thompson

Duane K. Thompson

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Cc: Respective counsel to James B. Panther and Guillermo Ciupiak in the parallel criminal case